

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.313 OF 1993

The State of Maharashtra

...Appellant.

V/s

Shivaji Shankar Hulge

...Respondent.

Mr. A. S. Shitole for the appellant.

Mr. R.S. Alange holding for Mr. V.B. Naik for the
respondent

CORAM: V.M.KANADE,J.
DATE: 20th January, 2005

ORAL JUDGMENT:

1. The State has filed this appeal challenging the judgment and order passed by the Judicial Magistrate, F.C. Malsiras, Solapur in R.C.C. No.33 of 1991. By the said Judgment and Order dated 12/1/1993, the Trial Court has acquitted the accused of the offence punishable under section 325, 323, 504, 506 of the Indian Penal Code.

2. Prosecution case in brief is that the accused assaulted his wife with a stick as a result of which she sustained injury on her hand which resulted in the fracture of bone of the hand. The offence was registered against the accused. The accused was arrested. Charge-sheet was filed. He pleaded not guilty to the said charge. Prosecution examined 10

witnesses. The Trial Court acquitted the accused after appreciating the evidence on record and came to the conclusion that the prosecution has not proved the offence beyond the reasonable doubt.

3. Heard the learned APP for the State and the learned Counsel appearing on behalf of the respondent.

4. The learned APP appearing on behalf of the State has taken me through the judgment and order of the Trial Court as also the notes of evidence of the witnesses examined by the prosecution. The learned APP appearing for the State has submitted that the accused came inside the house and assaulted her with a stick as a result of which she suffered grievous injury and was treated by the doctor. It is submitted by the learned APP for the State that the accused was having illicit relations with another woman and on that count he used to harass the complainant. I have gone through the oral evidence of the witnesses examined by the prosecution. The other witnesses have not supported the case of the complainant. The only evidence therefore against the accused is that of the complainant. In my view, it is not possible to accept the testimony of the complainant particularly when there was admittedly a dispute and quarrel between the

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husband and wife. In my view it is not possible to accept the uncorroborated testimony of the complainant particularly when her statement is not corroborated with the other witnesses which are examined by the prosecution. The Trial Court has taken a similar view. I do not see any reason to interfere with the Judgment and Order passed by the Trial Court. The view taken by the Trial Court is a reasonable view.

In the result appeal is dismissed.

V.M. KANADE, J.